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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,572	01/24/2002	Stuart H. Thomson	1095-1066.3	5439

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EXAMINER

GORDON, STEPHEN T

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# BEST AVAILABLE COPY

<b>Office Action Summary</b>	Application 10/056,572	Applicant(s) Thomson et al	
	Examiner Gordon	Art Unit 3612	Confirmation No.

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

Responsive to communication(s) filed on 5-19-03

This action is FINAL.  This action is non-final.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

Claim(s) 1-13, 19 + 21-23 is/are pending in this application.

Of the above claim(s) 1-13 + 19 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 21-23 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

The proposed drawing correction, filed on \_\_\_\_\_ is  approved or  disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.

The drawing(s) filed on \_\_\_\_\_ is/are  accepted or  objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).

All  Some\*  None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received:

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  The translation of the foreign language provisional application has been received.

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_  Interview Summary, PTO-413

Notice of References Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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## DETAILED ACTION

1. Applicant's election without traverse of the species of figure 20 in Paper No. 4 is acknowledged. Additionally, applicant elected species/subspecies of figures 9 and the fastener of figure 15 as additionally required. Applicant should note, applicant's election of the embodiments of figures 19-20 renders the additional portion of the restriction regarding figures 9 and 15 moot in view of the currently pending claims. Accordingly, claims 1-13 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.
2. The drawings are objected to because labels 37A and 37B on figures 15 and 16 (3 places total for both numbers) should be --137A-- and --137B-- respectively at each occurrence (see page 11). Additionally, leftmost label 36B on figure 6 should be --36A-- (see page 9). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "32" (2x on figure 8 and 2x on figure 9 - 4 places total). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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4. The disclosure is objected to because of the following informalities: page 1 of the instant specification should be updated to additionally include proper reference to parent application 09/267,436 including filing date and status (abandoned). Additionally, "Figures 9 and 10" on line 20 of page 8 should apparently be --Figures 8 and 9--. Also, each occurrence of "14" on page 9 (3 places total) should be --24--. Finally, the space should be deleted from "136 b" on page 13 - line 16.

5. Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 21, "the door of the automobile" lacks clear antecedent basis and could be written as --the door of one of the automobiles-- to clarify the term as best understood. Additionally, "said cushioning means" lacks antecedent basis and should apparently be --said cushioning material--. Finally, the last two lines are slightly confusing, and --each-- could be inserted before "said fastener" of the last line to clarify the claim in this regard as best understood.

Re claim 22, "said fastener and the side wall" bridging lines 10 and 11 lacks clear antecedent basis and should apparently be --said fasteners and one of said side walls--.

Re claim 23, "the door of the automobile" lacks clear antecedent basis and could be written as --the door of one of the automobiles-- to clarify the term as best understood. Additionally, "said cushioning means" lacks antecedent basis and should apparently be --said

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cushioning material--: Finally, the last two line is slightly confusing, and "said fastener" could be replaced with --said fasteners-- to clarify the claim in this regard as best understood.

Appropriate correction is required.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 23, as best understood, is rejected under 35 U.S.C. 102(b) as being clearly

anticipated by Bruder et al.

8. Claims 21-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Burke et al teaches an autorack railcar door bumper assembly.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556.

stg

May 28, 2003



STEPHEN T. GORDON  
PRIMARY EXAMINER